

U.S. Department of Labor

Office of Administrative Law Judges
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**U.S. DEPT
LABOR**

2012 JUL 16 P 12:38



Issue Date: 12 July 2012

Case Number: 2012-CLA-00010

In the Matter of:

**WAGE AND HOUR DIVISION,
UNITED STATES DEPARTMENT OF LABOR,**

Plaintiff,

v.

**HARRY L. JARRETT D/B/A
MJ RECYCLING,**

Respondent.

ORDER APPROVING CONSENT FINDINGS

This matter arises under Section 16(e) of the Fair Labor Standards Act of 1938 (FLSA), as amended, 29 U.S.C. § 216(e), and the regulations issued pursuant thereto at 29 C.F.R. Parts 579 and 580.

By notice dated January 24, 2011, the Administrator of the Wage and Hour Division of the United States Department of Labor (Plaintiff) notified the above-named Respondent of an assessment of a civil money penalty in the amount of \$15,000. Plaintiff alleged that Respondent violated the child labor provisions of Section 12 of FLSA and the regulations at 29 C.F.R. Part 570, *et seq.* Respondent timely filed exceptions to the assessed penalty with Plaintiff on January 28, 2011. On July 10, 2012, Plaintiff filed an Order of Reference which included Consent Findings and a proposed Decision and Order with the Office of Administrative Law Judges. In the Consent Findings, the parties have resolved all the issues raised in this matter.

A review of the Consent Findings shows that they comply with 29 C.F.R. § 18.9. In light of the foregoing, the attached Consent Findings are incorporated by reference and adopted in their entirety.

SO ORDERED,

JMH

A handwritten signature in black ink, appearing to read "S. Purcell", with a stylized flourish at the end.

STEPHEN L. PURCELL
Chief Administrative Law Judge

Washington, DC

SERVICE SHEET

Case Name: **WAGE_and_HOUR_DIVISI_v_HARRY_J_JARRETT_D-B-**

Case Number: **2012CLA00010**

Document Title: **ORDER APPROVING CONSENT FINDINGS**

I hereby certify that a copy of the above-referenced document was sent to the following this 12th day of July, 2012:


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UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES

ADMINISTRATOR, :
WAGE AND HOUR DIVISION, :
UNITED STATES DEPARTMENT OF LABOR, :
Plaintiff, : ADMINISTRATIVE PROCEEDING
v. : NO. 2012-CLA-
HARRY L. JARRETT d/b/a MJ RECYCLING, :
Respondent. :

US DEPT OF LABOR
ADMIN LAW JUDGES
WASHINGTON, DC
2012 JUL 10 AM 9 51

CONSENT FINDINGS

Pursuant to 29 CFR § 18.9, the parties hereby agree to the following consent findings:

I.

At all times pertinent to the Notice of Assessment of Child Labor Civil Money Penalties, the respondent was subject to the provisions of the Fair Labor Standards Act, as amended, 29 U.S.C. § 201, *et seq.* (hereinafter referred to as "the Act").

II.

By notice dated January 24, 2011 pursuant to Section 16(e) of the Act and 29 CFR Parts 579 and 580, a civil money penalty was assessed against the respondent by the Administrator for the respondent's alleged violations of Section 12 of the Act and the regulations at 29 CFR Part 570, *et seq.* Specifically, the Administrator alleged that respondent employed a 17 year old minor to assist in the operation of a metal punching and shearing machine in violation of Hazardous Order No. 8, 29 C.F.R. § 570.59 and in violation of 29 U.S.C. § 212(c) of the Act. As

a result of this violation and the serious injury that the minor incurred related to his unlawful employment, a civil money penalty of \$15,000.00 was assessed against the respondent.

III.

On January 28, 2011, the respondent filed timely exceptions to the assessed civil money penalty pursuant to 20 C.F.R. § 580.6.

IV.

The parties, in order to amicably resolve the disputed issues of fact and law concerning this matter, have agreed to the entry of these Consent Findings. The respondent further states that it will continue to remain in compliance with the provisions of Sections 6 and 7 of the Act and the regulations promulgated pursuant thereto.

V.

After further consideration and discussions in this matter and pursuant to the provisions of 29 CFR §18.9 and 579.5, the respondent hereby agrees to pay the \$15,000.00 assessed penalty.

VI.

Respondent hereby withdraws its exception to the assessed civil money penalty by delivering to plaintiff's representatives checks in the total amount of \$15,000.00 made payable to "Wage-Hour, Division, U.S. Department of Labor" delivered to Northeast Regional Office, The Curtis Center, Suite 850 West, 170 S. Independence Mall West, Philadelphia, Pennsylvania 19106-3317 with 30 days after the Administrative Law Judge's entry of a Decision and Order in this matter.

VII.

Plaintiff and respondent agree that any order entered in accordance with these Consent Findings shall, pursuant to 29 CFR § 18.9(b)(1), have the same force and effect as an order made after a full hearing.

VIII.

Plaintiff and respondent agree that the entire record upon which any final order in this matter may be based shall, pursuant to 29 CFR § 18.9(b)(2), consist solely of the notice of penalty and these Consent Findings.

IX.

Respondent agrees that any and all further procedural steps available to it before an Administrative Law Judge, and any rights to challenge or contest the validity of these Consent Findings or any order issued pursuant thereto are, pursuant to 29 CFR § 18.9(b)(3) and (4), hereby waived.

X.

Each party agrees to bear its own attorneys' fees, costs, and other expenses incurred by such party in connection with any stage of the above-referenced proceeding including, but not limited to, attorneys' fees and costs which may be available under the Equal Access to Justice Act, as amended.

XI.

Except for proceedings under the Act, nothing contained herein shall be deemed to constitute an admission of a violation of the Act or regulations. Further, except for proceedings under the Act, nothing contained herein is intended to constitute an admission of civil liability under any local, state or federal statute or any principle of common law.

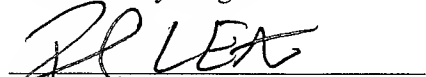
Dated this 26th day of JUNE, 2012.

M.J. RECYCLING

BY:



For MJ Recycling



Rich Etter, Esquire

McNees, Wallace & Nurick, LLC

Counsel to MJ Recycling

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Regional Solicitor



Jodeen M. Hobbs
Attorney

U. S. DEPARTMENT OF LABOR

Attorneys for the Administrator